REA LAW JOURNAL

Vol. I, No. 1 December, 1938 one

RECENT CASES

Conflict of Laws - Full Faith and Credit - Association Certificate

A fraternal beneficial association incorporated and doing business under the laws of Nebraska issued twenty-year paid up beneficial certificates. The Nebraska Supreme Court, by an interpretation of Nebraska laws, held that these were ultra vires and therefore invalid. Thereafter action was brought on a similar certificate in Missouri. The association presented the Nebraska case as a defense. The plaintiff urged that this certificate, as a contract, was made and executed in Missouri and therefore Missouri law governed. The Missouri Supreme Court refused to accept the decision of the Supreme Court of Nebraska stating that full faith and credit need not be accorded on the ground that in the present case, a Missouri contract was involved and its ultra vires nature would be determined by local Missouri law.

Reversed, on the grounds inter alia that "the beneficiary certificate was not a mere contract to be construed and enforced according to the laws of the state where it was delivered. Entry into membership of an incorporated beneficiary society is more than a contract; it is an entering into a complex and abiding relation...." Sovereign Camp of Woodmen v. Bolin, 6 U.S.L.Week., 274 (U.S. Supreme Court, November 7, 1938)

Constitutional Law - Power of the legislature to compel electric companies to furnish consumers with electric light bulbs gratis

The House of Representatives requested an advisory opinion of the Supreme Judicial Court of Massachusetts as to the constitutionality of a proposed statute which provided: "Every electric company shall furnish its consumers with electric light bulbs without charge therefor." Held, that the enactment of the proposed bill would be a violation of the due process clause of the State Constitution. The court states that the act would require electric companies to perform a duty outside their original undertaking without compensation therefor. If such an act were held valid, the legislature could require companies to furnish all sorts of equipment free. It differs from a prohibition against charge for meters because the latter is essential to measure the amount of electricity delivered to consumers. The act in no ways promotes the public health, public safety or public morals and therefore is not a permissible exercise of the police power. The court here takes a narrow view of police power; economic legislation is also justifiable under the police power. The Massachusetts court seems to rule out such a possibility. In re Opinion of the Justices, 14 N.E. (2d) 392 (Mass. 1938).

Mortgages - Defective Notice of Sale

Grantor executed a deed of trust to trustee signing his name "B. Blakeney". Upon default, the trustee, pursuant to the terms of the trust, advertised the property for sale. The advertisement stated the name of the grantor as "B. B. Blakeney". The land was sold and the purchaser at the foreclosure sale now brings an action of ejectment to obtain possession of the land. The grantor resisted the action on the ground that a state statute provided that the notice and advertisement "shall disclose the name of the mortgagor...whose property is advertised for sale", and that "no sale of lands under a deed of trust or mortgage shall be valid unless such sale shall have been advertised as herein provided for..."

Held, judgment for the defendant. The advertisement of the sale was void because: "B.B. Blakeney is another and different name and therefore cannot be held to refer to B. Blakeney." For this

reason, the sale was void and the purchaser obtained no interest. If courts are going to be that strict in 1938, perhaps we had better examine names more carefully. Blakeney v. Smith, 183 So. 920 (Miss. 1938)

Municipal Corporations

An amendment to the Arkansas Constitution empowers municipalities to issue bonds for the purpose of "purchasing, extending, improving, enlarging, building, or constructing...light plants and distributing systems...."

Held, that this provision authorized a municipality to construct suitable ornamental standards of electric lighting equipment to provide a modern "white-way" system of electric illumination for certain streets. This is a form of street lighting and is connected with a distributing system. Court: "When so connected, it will be an enlargement and an extension and therefore an improvement." Todd v. McCloy, 6 U.S.L.Week. 256 (Ark. Sup. Ct., October 10, 1938)

Torts - Negligence - Res Ipsa Loquitur

An automobile drove into a pole maintained by a power company causing the power company's transmission line to deliver single-phase instead of three-phase current to a parking plant, thus causing an overload of current. The overload devices had not been inspected by the power company for a number of years and as a result the motors in the packing plant began to burn causing, finally, the destruction of the packing plant.

Held, that the liability of the power company depended upon whether it had been negligent in failing to inspect and maintain properly the overload devices. The plaintiff packing plant attempted to invoke the doctrine of res ipsa loquitur, but the court held that in view of the intervening act the plaintiff could not take advantage of the doctrine. However, the court felt that the evidence of negligence was sufficient to require that the question be submitted to a jury for a finding, and therefore reversed the district court's directed verdict for the defendant.

ADMINISTRATIVE INTERPRETATIONS

Availability of Funds out of Appropriation for Recreational Facilities

The River and Harbor Act of 1937 provided for an appropriation for construction work on an island in the middle of the Pacific Ocean. The funds came from the War Department Civil Appropriations Act. The Secretary of War requested the Acting Comptroller General to rule on whether funds could be used to provide "athletic facilities, a library of a few books, magazines and possibly newspapers ...and moving pictures." The Secretary of War reasoned that since this island was so far from normal civilization, recreational facilities would be "necessary to the health and welfare of the working force" and "a material aid in recruiting the necessary force and maintaining morale and efficiency in prosecuting the project to completion...."

Acting Comptroller General Elliott ruled that although the furnishing of the recreational facilities may be highly desirable, especially in the type of case presented, yet "they constitute expenses which are personal to the employee and which are not permitted to be furnished from appropriated funds unless provided in the appropriation either specifically or by necessary implication." The only authority cited in the opinion is Section 3678 of Revised Statutes of U.S. Research discloses that this reads: "No Act of Congress shall be construed to make an appropriation out of the Treasury of the United States, or to authorize the execution of a contract involving the payment of money in excess of appropriations made by law, unless such Act shall in specific terms declare an appropriation to be made or that a contract may be executed." It would seem that this statute has little bearing on the question. 18 Acting Comptroller General Dec. 147 (1938)

Securities Commission Jurisdiction
Membership Certificate

The Attorney General of California ruled that a membership certificate of a consumers service association (certificate similar to those used by our coop-

ADMINISTRATIVE INTERPRETATIONS

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The River and Harbor Act of 1957 provided for an appropriation for continuation work on an island in the middle of the Pacific Ocean. The funds came from the War Department-Civil Appropriation Act. The Secretary of War requested the Acting Comptroller General to rule on whether funds could be used to provide "athletic facilities, library, a few books, magazines and possibly newspapers ...and moving pictures." The Secretary of War reasoned that since this island was far from normal civilization, recreational facilities would be "necessary to the health and welfare of the working force" and "material aid in recruiting the necessary force and maintaining [illegible] efficiency in performing [illegible] to [illegible] tion...."

[illegible] Comptroller General [illegible] the funds [illegible] facilities may [illegible] totally in the [illegible], yet they [illegible] which are [illegible] to the [illegible] are not [illegible] to be furnished [illegible] and provide [illegible] the appropriation [illegible] additional [illegible] necessary [illegible] tion." [illegible] authority cited in the opinion is [illegible] 8 as revised [illegible] from disclosures [illegible]: "No [illegible] of Congress [illegible] in appropriation [illegible] of the United States, or [illegible] the execution of a contract [illegible] the payment of money in excess of an appropriation made by law, unless such [illegible] shall [illegible] facilities some [illegible] an appropriation to be made or that a contract may be executed." It would seem that this statute has little bearing on the question. 38 Acting Comptroller General [illegible] 147 (1958)

Securities Commission Jurisdiction - Gas Vending Certificates

The Attorney General of California [illegible] that a homebuying certificate or a consumers service association certificate similar to those used by auto [illegible]

[illegible], the [illegible] was void and the purchaser obtained no interest. If courts are going to be that strict in 1958, perhaps we had better examine more carefully. Pinkney v. Smith, 158 So. 840 (Miss. 1935)

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Held, that this provision authorized a municipality to construct suitable ornamental standards of electric lighting equipment to provide a modern "white-way" system of electric illumination for certain streets. This is a form of street lighting and is connected with a distributing system. Court: "[illegible] to construed, it will be an [illegible] and therefore [illegible] tension and therefore [illegible]." Todd v. Hodge, 8 U.C.L.R. [illegible] (Ark. Sup. Ct., [illegible] 1958)

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An automobile drove into a pole maintained by a power company carrying the power company's trademark like to distribute electric-phase lighting of the [illegible] to a parking plant, thus causing an overload of current. The overload [illegible] were damaged by the power [illegible] of power and as a [illegible] the parking plant [illegible] to burn out. Finally, the defendant [illegible] of the parking plant.

Held, that the liability of the power company depended upon whether it had been negligent in failing to inspect and maintain properly the overload device. The plaintiff's parking plant attempted to involve the doctrine of res ipsa loquitur, but the court held that in view of the intervening act the plaintiff could not take advantage of the doctrine. However, the court felt that the evidence of negligence was sufficient to require that the question be submitted to a jury for a finding, and therefore reversed the district court's directed verdict for the defendant.

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Published Monthly

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Every attorney worth his salt constantly reads the advance sheets, glances through the law reviews in the racks at the library, and tries to do the other million and one things necessary to keep abreast of the law. For each attorney in the REA Legal Division this would mean duplication of work forty-fold. Hence the REA Law Journal. The Journal will endeavor to prevent unnecessary duplication of work by presenting pertinent recent cases, statutes, memoranda and miscellaneous material.

eratives) was exempt from the operation of the California Securities Act. Although this is in line with most rulings and in accord with a prior ruling of the Attorney General of California on our own membership certificates, the following language of the opinion is of interest: "while it is true that a saving in the purchase of goods and services inures to the benefit of the holder of a membership certificate ...when the association refunds to the member..., it cannot be said that the payment by the association to the member of the amount of such saving constitutes a distribution of profit or earnings of the association. The net result to the member is the same as if he were to purchase goods and commodities directly from a wholesaler and at wholesale prices. The surplus or excess refund to him, as provided for in the plan, is in no sense a profit or earning of the association, but evidences only the saving he has effected by each purchase or series of purchases." Opinion of Attorney General of California (October 11, 1938)

REA Act - Sum to be used as base for determining amount of money available for projects in any one state.

Under the Rural Electrification Act of 1938, the RFC is "authorized and directed to make loans to the Administrator, upon his request approved by the President" totalling $100,000,000 for the present fiscal year. Section 3 (c) of the Act reads in part: "Fifty per centum of the annual sums herein made available or appropriated for the purposes of this Act" shall be allotted for loans among the various states "in the proportion which the number of their farms not then receiving central station electric service bears to the total number of farms of the United States not then receiving such service." Section 3 (d) provides that the remaining 50 per centum shall be unallotted among the various states "provided, however, that not more than 10 per centum of said unallotted annual sums may be employed in any one State,..." The Administrator sought an opinion from the Comptroller General to determine whether 10 per cent of the total unallotted annual sums could be applied for projects in any one state prior to the President's approval of REA use of the total unallotted annual sums.

Ruled: Only so much of the unallotted sums as the President has approved is available to REA for its purposes and therefore only 10 per cent of that sum may be used in any one state. The Administrator argued that the total $100,000,000 to be obtained by REA from RFC was made available by the Act of Congress (Section 3 (c) referring to the total sums REA may avail itself of during the year and stating "herein made available"). Furthermore, the Administrator pointed out that under the Comptroller General's Opinion,

at wholesale prices. The surplus or excess refund to him, as provided for in the plan, is not income or profit earning of the association, but evidences only the saving on a purchase effected by purchaser [illegible] of purchase price." (Opinion of Attorney General of California (October 11, 1939).)

REA Act 12 — Rule to be used as basis for determining amounts of funds available for purposes in any one state.

Under the Rural Electrification Act of 1936, the REA is authorized and directed to make loans to the Administrator, upon his request approved by the President, totaling $100,000,000 for the present fiscal year. Section 3 of the Act reads in part: "Fifty per centum of the annual sums made available for carrying out the purposes of this Act shall be allotted from year to year among the several States in the proportion which the number of their farms not then receiving central station electric service bears to the total number of farms of the United States not then receiving such service." Section 3(d) provides that the remaining 50 per centum shall be employed without allotment as "provided, however, that not more than 10 per centum of said unallotted annual sums may be employed in any one State.... The Administrator [illegible] from the Comptroller General as to whether 10 per cent of the total [illegible] sums should be applied to projects, any one State [illegible] the Administrator's approval [illegible] the Rural Electrification Act.

Rule 4: Only such sums as [illegible] under the Act are available for purposes, and are to be used only by the Administrator. The total $100,000,000 is covered by [illegible] 1940 funds available by the Act of [illegible] Comptroller General's opinion.

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[illegible] is exempt from the operation of the California [illegible] Act. Although this is in line with those issued in accord with a principle of the Attorney General of California on our own membership operations, the following language of the opinion is of interest: "While it is true [illegible] the saving in the purchase of goods [illegible] the benefits of [illegible] the nature of a [illegible] ... the association remains to the member ... cannot hold that the payment by the association to the member of the amount of such savings constitutes a distribution of profits or earnings of the association. [illegible] is in the same position as if he were to purchase goods and merchandise directly from a wholesaler and

progress in one state may have to be halted while projects in other states catch up. It was also stated, however, that were 10 per cent of the total unallotted sums used as a base for determining how much an individual state could get, the intent of the statute might be regarded as violated were REA to fail to utilize the entire amount by the end of the year. To uphold this argument is to assume that the Congressional intent was to limit disbursements in any one state to 10 per cent of the total amount actually disbursed rather than to 10 per cent of the total amount made available to the REA by the Act. It is submitted that the Congressional intent, as gleaned from the statute, is not at all clear one way or the other, and in view of the practical advantages and the social desirability of permitting the total amount of the unallotted sums to be used as a base, the ruling of the Comptroller General seems unduly narrow. Ops. Comp. Gen. A-98555 (Oct. 18, 1938)

LEGAL MEMORANDA WRITTEN IN NOVEMBER, 1938

No. 806 Conference with Mr. Rufus Poole, an attorney for the Wage-Hour Division at the Department of Labor
Lamberton to Nicholson
Discussion of the problem of whether our cooperatives will be subject to the Fair Labor Standards Act.

No. 807 Special Statutory considerations given to REA Projects in Tax Statutes
Altkrug to Hartung

No. 808 Statutory Form of Acknowledgment in Mississippi
Gerber to Jones

No. 809 Right of Contractor withdrawing bid before acceptance to 5% deposited with Bid (Georgia)
Winokur to O'Callaghan

No. 810 Substitution of T.E. O'Callaghan for J. M. Carmody in affidavit to Utah chattel mortgages
Cohen to Tilton

No. 811 Incorporation by Reference to Contract to be executed in the future
Hertz to Lamberton

No. 812 Liability of Cooperative for Negligent Inspection by Wiring Inspector and Proposed Plans to Insure Non-Liability (W. Va.)
Winokur to O'Callaghan

No.812-A Liability of Cooperative for Negligent Wiring Inspection and Suggested Plan to Insure Non-Liability
Winokur to O'Callaghan

No. 813 Puerto Rico - United States laws extended to Puerto Rico
Baldinger to Blackburn

No. 814 Puerto Rico - Workmens' Compensation
Baldinger to Blackburn
(Suppl. Memo.)

No. 815 Puerto Rico - Section 401 - Rural Electrification Act of 1938
Baldinger to Blackburn

No. 816 Puerto Rico - Immunity for Suit
Baldinger to Blackburn

No. 817 Deposition of party plaintiff - Nebraska
Baldinger to O'Callaghan

No. 818 Authorization of Wiring Loan (W. Va.)
Winokur to Frazer

No. 819 Fair Trade Acts - Illinois and New York Enactments - Applicability to Contracts made by Proposed Appliances Cooperative in these States
Hertz to Rushmer

No. 820 Installation Loans in South Carolina
Winokur to Frazer

Purposes in our states may have to be
dealt with primarily in other months
ahead. It was also stated, however,
that were in spite of the broad un-
allotted sums there as a base for de-
termining not just an institutional estate
could get, the benefit of the matrix
might be regarded as violated were Mr.
to fail to utilize the entire amount
by the end of the year. To uphold this
argument, it is to assume that the Congres-
sional intent was for Land Distribution
in any one state to be per cent of the
total amount actually obtained rather
than to be per cent of the total amount
made available to the Act by the Act.
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intent, as gleaned from the statute,
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other, and in view of the practical
advantages and the moral desirability
of permitting the total amount of the
unallotted sums to be used as a base,
the ruling of the Comptroller General
seems unduly narrow. Op. cit. p. 6.
A-[illegible] (Dec. 16, 1944)

[illegible] DECISIONS RELATING TO NON-FEDERAL LAWS

No. 806 Conformance with Mr. Burns Work
Act attorney for the Veterans-Ad-
Division of the Department of
Labor

Reference to Michigan.

Determination of the problem of
whether one employee with
the authority of the Public Labor
Relations Act.

No. 807 Special Statutory consideration
Items given to AMA Professions in
Air Services

Attorney to Nevada

No. 808 Exchange-Item of Advertising
ment in Michigan

Attorney to Idaho

No. 809 Right of Commissioner [illegible]
bill [illegible] amendments to the de-
partments of [illegible] (Georgia)

Attorney to [illegible]

No. 810 Jurisdiction of [illegible] Collection
for [illegible] Company in California

to Utah [illegible]

No. 811 Incorporation by [illegible]
Government to be accepted [illegible]
[illegible]

Horse to [illegible]

No. 812 Liability of [illegible]
Negligent Inspection by [illegible]
Inspection [illegible]
Insure Non-liability (N. Y.)

Memorandum to O'Malley

No. 812-A Liability of Government for
Negligent Mining Inspection and
Suggestions for Insure Non-
Liability

Memorandum to O'Malley

No. 813 Puerto Rico - United States Laws
extended to Puerto Rico

Memorandum to Hildebrand

No. 814 Puerto Rico - Workmen's Compen-
sation

Memorandum to Hildebrand
(Supp. Mem.)

No. 815 Puerto Rico - Statutes, etc. -
Work Stoppage Act of
1946

Memorandum to Hildebrand

No. 816 Puerto Rico - Liability for Tort
Memorandum to Hildebrand

No. 817 Regulation of power plant [illegible] -
Kentucky

Memorandum to O'Malley

No. 818 Authorization of Alien Land
(N. Y.)

Memorandum to Kenney

No. 819 Public Trust Acts - Tidelands and
New York Amendments - Applica-
bility to Commerce Act by
Treasury Appropriations Proposed to
Be Taken Effect

Memo to Hodges

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Carolina

Memorandum to Kenney

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Lett to Nicholson

No. 822 Minnesota Income Taxes
L. Jones to Hoyt

No. 823 Kansas OO Municipality
Baldinger to D. N. Smith
Kansas statutes relating to municipal participation in rural electrification

No. 824 The laws of Iowa and Minnesota affecting Operations of a Wisconsin Cooperative within those two States
Hoyt to Wise

No. 825 Formation of a Federated Cooperative to Own and Operate a Generating Plant in Wisconsin
Hoyt to Wise

No. 826 Iowa - "Structural Interference" Problem of commission jurisdiction over electric transmission lines built over private property on the theory that it constitutes "structural interference"
Baldinger to Lamberton

No. 827 Suggestions Concerning the Draft of a Model Electric Cooperative Corporation Act
Winokur to Moore

No. 828 Necessity for Recordation of a Bill of Sale conveying a Pipe Line---Realty or Personalty
Hoyt to Helfrich

RECENT STATUTES

ILLINOIS

S. B. No. 53, 1st Sp. Sess. 1938

Provides that in addition to all powers of municipalities they are now specifically authorized "to...accept loans from and contract with the United States Government, or any department or agency thereof...for...financing the... construction...of any public work project...and to sell or pledge therefor any securities which such municipality is authorized to issue." Furthermore, the municipality is authorized to pledge its revenue as security for such loan. (Approved July 6, 1938)

KENTUCKY

H. B. No. 345, 1938

An act providing for the licensing of all engineers. Engineers within the act are persons who engage in any service, "such as consultation, investigation, evaluation, planning, design or responsible supervision of construction, or operation, in connection with any public or private utilities, structures, machines, equipment, etc.". A State Board of Registration is set up. In order to obtain a license, an engineer must show graduation from an approved engineering school with a four year's curriculum, or the equivalent, plus "a specific record of an additional four years or more of experience in engineering work of a character satisfactory to the Board." If an engineer can demonstrate a specific record of twelve years or more of lawful practice and such engineer is not less than thirty years of age, he may be licensed regardless of educational requisites. The general requirements here outlined are not exclusive and there are other methods, no less difficult, of qualifying. The registration fee for engineers may not exceed $25. It should be noted that no penalty is provided in the event that a person employs an unlicensed engineer. Therefore, our cooperatives cannot be penalized if the engineers they employ are not licensed. (Approved March 11, 1938)

LOUISIANA

Act No. 535, 1938

Provides that every corporation organized under laws of any other state (except insurance corporations) before

Federal Incorporation of Co-operatives as a means by which to avoid local State Taxation and Regulation

Lett to Nicholson

[illegible] Income Taxes

L. Jones to Hoyt

[illegible] Co Municipality

Letter to D. N. Smith

Ontario statutes relative to municipal provisions in rural electrification

[illegible] The form of form and [illegible] [illegible] Co-operative Corporations within which two or more

Hoyt to [illegible]

[illegible] Formation of a Telephone Co-operative

Hoyt to [illegible]

[illegible] Lowe - "Expropriation and reference" Problem of compulsory purchase [illegible] tion over electric transmission lines built over private property [illegible] "Municipal Improvement Act"

[illegible] to Lowe

[illegible] Supply of Electric Power Co-operative Corporation Act

Hoyt to [illegible]

[illegible] For Incorporation of [illegible] Providing Pile [illegible] or Tramway

Hoyt to [illegible]

[illegible]

[illegible]

[illegible] B. [illegible] Lt. Co. [illegible]

[illegible] Provision [illegible] municipal [illegible] "[illegible]

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[illegible]

[illegible]

[illegible] B. [illegible] Lt. Co. [illegible]

[illegible] Provision [illegible] municipal [illegible] "[illegible]

loans from the Government of the United States Government, or any [illegible] or agency thereof...for...financing the construction...of any public work [illegible] ...and to sell or pledge or otherwise dispose of which such municipality is authorized to issue." Furthermore, the municipality is authorized to pledge its revenue as security for such loan. (Approved July 6, 1933)

KENTUCKY

R. S. Ch. 345, 1934

As to providing for the life saving of all engineers. Engineers within the meaning of persons who engage in any [illegible] work as consulting, investigating, [illegible], plumbing, design or supervision of construction, or operation, in connection with any public or private utilities, improvements, machines, buildings, etc. [illegible] Board of Registration in [illegible]. In order to obtain a license, an applicant must [illegible] from an approved engineering school with a four year course, [illegible] practical experience, plus "specific evidence of professional competency" [illegible] Board."

[illegible] requirements [illegible] years or more [illegible] years. [illegible] requirements of educational [illegible] [illegible] qualifications. [illegible] [illegible] qualifying. [illegible] [illegible] Board. [illegible] [illegible] person employed as [illegible] [illegible]. Therefore, [illegible] co-operative [illegible] by public [illegible] [illegible] not licensed. (Approved [illegible])

[illegible]

[illegible] 1934

[illegible] Provision [illegible] [illegible] municipal [illegible] [illegible]

being authorized to do business in Louisiana must file in the office of the Secretary of State a written declaration of its domicile, the place or places in the state where it is doing business, the place of its principal business establishment and the name of its agent or agents for service (the agent must be a resident of the parish where the corporation has an established business). (Approved July 6, 1938)

Act No. 239, 1938

Authorizes Jefferson Parish to create an electrical inspection board with power to regulate and control "the wiring of all buildings in the Parish of Jefferson outside the limits of incorporated municipalities..." (Approved July 6, 1938)

Act No. 126, 1938

Provides for a mortgage moratorium. However, Section 1 specifically provides that it shall not apply to any debts due to the United States or to any agency or department thereof. (Approved July 2, 1938)

Act No. 92, 1938

Authorizes the Louisiana Public Service Commission to grant franchises for the construction of electric transmission lines along public roads outside city and town limits when a parish police Jury refuses the grant of the franchises. (Approved July 2, 1938)

MISSISSIPPI

H.B. No. 122, 1st Sp. Sess. 1938

Exempts electrical cooperatives from property, privilege, sales or gross income taxes. (Approved August 20, 1938)

H. B. No. 800, 1938

Provides that a cooperative may file a map with the State REA plus a statement showing that a majority of customers have signed up and that thereafter for a period of six months the cooperative will have an option on the territory and that no other electric utility may go into the territory. (Approved April 6, 1938)

H. B. No. 649, 1938

Amends the former electric cooperative act and includes a grant of the power of eminent domain to the cooperative. It further specifically grants the cooperative the power to sell, lease, etc., electrical and plumbing appliances. (Approved April 5, 1938)

S. B. No. 312, 1938

Authorizes rural electric cooperatives to construct electric lines on state lands without payment to the state. (Approved March 29, 1938)

H.B. No. 163, 1st Sp. Sess. 1938

Provides that electrical cooperatives may file a map with the State REA indicating the areas in which they intend to operate, plus a statement that the majority of the potential users have signed applications and that thereafter it shall be unlawful for any electrical utility to begin construction within such area. Furthermore, if the filing corporation within six months thereafter enters into a loan contract with a Federal Agency to finance the electric system and files written notice thereof with the State REA, together with a copy of the loan contract, no utility may begin construction in the area for a period of twelve months from the time of the filing of the notice. The State REA is required to give notice to each electric utility having lines within ten miles of the area. The filing corporation is required to furnish sufficient copies of the notice, etc. to serve all the utilities in the area. If a utility should violate the provisions of this Act, the corporation may institute proceedings in chancery to enjoin such violation. The proceedings may be ex rel the Attorney General or any District or County Attorney. A temporary restraining order may be granted. The usual bonds as a condition precedent to obtain injunction relief is not necessary. (The act became law without approval, August 19, 1938)

[illegible]

[illegible]

[illegible]

NORTH CAROLINA

H.B. No. 3, 2nd Sp. Sess. 1938

A revenue bond act authorizing counties and other political subdivisions of the state to engage in activities to provide "electric energy for lighting, heating and power, for public and private uses." This is an entire revenue bond act and includes many of the modern remedies such as the right to receivorship upon default, etc. (Approved August 13, 1938)

RHODE ISLAND

H. B. No. 761, 1938

Provides for the licensing of engineers. This act is similar in form to the Kentucky licensing act above discussed. The registration fee is only $15. Up to April 23, 1939, practitioners may obtain license without examination. It has a provision specifically exempting Federal Government employees from the requirements of licensing provisions when they are practicing within the state for the Government. (Approved April 23, 1938)

SOUTH CAROLINA

Act No. 740, 1938

Provides that a notary public who is a stockholder, director, officer or employee of a bank or other corporation shall have the power to take acknowledgements of parties to a written instrument executed by the corporation. The notary public, of course, may not be a party to the instrument. All prior acknowledgements meeting the requirements of this act, are hereby validated. (Approved February 19, 1938)

Act No. 1042, 1938.

Exempts from payment of taxes in Lancaster County for a period of ten years, new rural electrification lines or any additions to or extensions of lines. (Approved April 13, 1938)

VIRGINIA

Va. Laws 1938, Chap. 331

Revises requirements concerning licensing of engineers in Virginia. (Approved March 30, 1938)

REVIEWING THE LAW REVIEWS

Parker, Handling a Case Under the New Federal Rules. (Oct. 1938) 24 A. B.A.J. 783.

The senior circuit judge of the 4th Circuit Court of Appeals outlines the procedure for pleading and trial under the new Federal rules.

Douglas, Scatteration or Integration of Public Utility Systems. (Oct. 1938) 24 A.B.A.J. 800.
A discussion of the advisability of integrating our utility systems.

McCaffery, Corporate Re-Organization under the Chandler Bankruptcy Act (Sept. 1938) 26 Calif. L. Rev. 643.

Friedman, The Scope of Mortgage Liens on Fixtures and Personal Property in N.Y. (Nov. 1938) 7 Fordham L. Rev. 331.

The General Welfare Clauses in the Constitution of the United States (Nov. 1938) Note in 7 Fordham L. Rev. 390.
This was a prize essay and contains a thorough discussion of the history and present scope of the General Welfare clause.

Gerdes, Corporate Reorganizations: Changes Affected by Chap. 10 of the Bankruptcy Act (Nov. 1938) 52 Harv. L. Rev. 1.

The Louisiana Trust Estates Act (Nov. 1938) 52 Harv.L.Rev. 145. Louisiana legislature adopts statutory rules to govern the law of trusts.

NORTH CAROLINA

H.R. No. 3, 2nd Sp. Sess. 1938

A revenue bond act authorizing counties and other political subdivisions of the State to engage in activities to provide "electric energy for lighting, heating and power, for public and private uses." This is an entire revenue bond act and includes many of the modern remedies such as the right to receivership upon default, etc. (Approved August 15, 1938)

RHODE ISLAND

[illegible] 761, 1938

Provides for the licensing of engineers. This act is similar in form to the Kentucky licensing act above discussed. The registration fee is only $15. Up to April 23, 1939, practitioners may obtain license without examination. It has a provision specifically exempting Federal Government employees from the requirements of licensing provisions when they are practicing within the state for the Government. (Approved April 23, 1938)

SOUTH CAROLINA

Act No. 280, 1938

Provides that a notary public who is a stockholder, director, officer or employee of a bank or other corporation shall have the power to take acknowledgements of parties to a written instrument executed by the corporation. The notary public, of course, may not be a party to the instrument. All prior acknowledgements meeting the requirements of this act, are hereby validated. (Approved February 19, 1938)

Act No. 1042, 1938.

Exempts from payment of taxes in Lancaster County for a period of ten years, new rural electrification lines or any additions to or extensions of lines. (Approved April 13, 1938)

VIRGINIA.

Va. Laws 1938, Chap. 384

Revises requirements concerning licensing of engineers in Virginia. (Approved March 30, 1938)

BOOKS AND THE LAW REVIEWS

Parker, Handling a Case Under the New Federal Rules. (Oct. 1938) 24 A.B.A.J. 785.

The senior circuit judge of the 4th Circuit Court of Appeals outlines the procedure for pleading and trial under the new Federal Rules.

Douglas, Federal Regulation of Integration of Public Utility Systems. (Oct. 1938) 24 A.B.A.J. 800.

A discussion of the advisability of integrating public utility systems.

McClintock, Complete Reorganization under the Chandler Bankruptcy Act (Sept. 1938) 26 Calif. L. Rev. 548.

Friedman, The Scope of Mortgage Liens on Fixtures and Personal Property in N.Y. (Nov. 1938) 7 Fordham L. Rev. 331.

The General Welfare Clause in the Constitution of the United States (Nov. 1938) Note in 7 Fordham L. Rev. 390.

This was a prize essay and contains a thorough discussion of the history and present scope of the General Welfare Clause.

Gerdes, Corporate Reorganizations Changes Affected by Chap. 10 of the Bankruptcy Act (Nov. 1938) 52 Harv. L. Rev. 1.

The Louisiana Private Contract Act (Nov. 1938) 52 Harv. L. Rev. 148. Louisiana legislature adopts statutory rule to change the law of the

Gordon, The Lawyer and Civil Service (Sept. 1938) 1 Nat. Law.Guild Quart. 294.

De Long, Can Planned Economy Work in the Utility Business? (Nov. 24, 1938) 22 Pub. Util. Fortnightly 695.
The writer most emphatically believes not. He demonstrates (?) that planned economy cannot succeed in the public utilities field. The thesis presented is interesting, albeit questionable.

The REA Reports Progress (November 24, 1938) 22 Pub. Util. Fortnightly 715.
A critical review of the Administrator's paper--"Governmental Encouragement and Financing of Rural Electrification"--presented at the 1938 World Power Conference in Vienna.

Fraenkel, Constitutional Issues in the Supreme Court, 1937 Term (November 1938) 87 U. of Pa. L. Rev. 50.
A review of all the constitutional cases decided by the United States Supreme Court in the past term. (Tax cases omitted and discussed in a separate article cited below.)

Lowndes, Taxation and the Supreme Court, 1937 Term (November, 1938) 87 U. of Pa. L. Rev. 1.
A review of all tax cases decided by the United States Supreme Court in the past term. It includes a short discussion of the federal spending power and the light thrown on it by the 1938 cases.

LIBRARY NEWS

The REA Law Library has recently acquired the following books:

Moore, Federal Practice (1938) Vol. I. This book contains a thorough discussion of the new rules in the Federal Courts. (Rules 38 to 85 inclusive.)

Williston, Contracts (1938) Vols. I to VIII inclusive. Although the library has had seven of these volumes for some time they were not very useful due to lack of an index. The index volume (Vol. 8) arrived the other day.

The General Library has received:

Civil Service Preference, Retirement and Salary Classification Laws. Compiled by E. A. Lewis, Superintendent, Document Room, House of Representatives.

Brown, Telephone Protection and Rural Electrification (November 12, 1938) 115 Telephony 11.

Public Utility Financing in the Third Quarter of 1938. In the November 1938 issue of the Journal of Land and Public Utility Economics.